name was written in. *People ex rel. Anderson* v. *Byers* (1903), — Mich., — 97 N. W. Rep. 51.

This case overrules *Attorney-General* v. *Glaser*, 102 Mich. 411, 61 N. W. Rep. 648, decided in 1895, which held that such a ballot should be counted for the candidate whose name was written in. The court assigns as its reason for overruling that case, that the law was amended in 1901, as quoted above. It is interesting to note, however, that in so far as it affects the principal case, the law was amended in 1893, (Pub. Acts of 1893, page 328) prior to the decision of the *Glaser* case, but after the election concerning which that case arose, and while the change could not have affected that decision, the court called attention to the amendment and its effect in another particular, but did not call attention to the fact that that case would have been differently decided had the facts arisen subsequently to the amendment. The omission is the more striking for the reason that the *Glaser* case was the first to come before the Michigan court involving the Australian ballot law, and the court went to great length in interpreting the law for the future guidance of election officers. The decision in the principal case is an illustration of the strictness with which the courts construe and apply the provisions of the Australian ballot law, even where the intention of the voter is perfectly plain. Only one case is cited in support of the decision, *Vallier* v. *Brakke*, — S. D. —, 64 N. W. Rep. 184, but it is to be noted that under the law of South Dakota it is not competent to write the name of a candidate upon the ballot under any circumstances.

GIFTS CAUSA MORTIS—DELIVERY.—Decedent having buried sums of money in various places about his estate, and being ill and barely able to walk, took his daughter to show her the whereabouts of the money, but being too weak could not go to the various places and instead told her definitely the several places where it was concealed, with a positive declaration that he gave it to her, cautioning her not to let any one else know where it was, and advising her to leave it, until the place was rented or she needed it. *Held*, a sufficient delivery. *Waite* v. *Grubbe* (1903), — Ore. —, 73 Pac. Rep. 206.

The court held that decedent had made as complete a delivery as was possible under the circumstances and that in telling his daughter his secret he had in fact given her "the key to his safety vault." Although the case goes rather far in validating a symbolical delivery consisting merely of a declaration of gift and a disclosure of a hiding place, it is consonant with the equities of the situation and seems to be correctly decided. *Ellis* v. *Secor*, 31 Mich. 185, 18 Am. Rep. 178; *Stephenson* v. *King*, 81 Ky. 425, 50 Am. Rep. 172; *Newman* v. *Bost*, 122 N. Car. 524, 29 S. E. Rep. 848; *Thomas* v. *Lewis*, 89 Va. 1, 37 Am. St. Rep. 848, 15 S. E. Rep. 389, 17 L. R. A. 170.

GUARDIAN—SALE OF REAL ESTATE.—A was the owner of an undivided five-sevenths of a tract of land. One-seventh belonged to A's minor daughter of whom he was guardian, the remaining one-seventh belonged to A's nephew whose father was his guardian. A contracted to sell the entire tract to plaintiff in error, H, and to procure conveyances to him of the interest of the minors for a lump sum, one-seventh of which was to be paid to each minor on account of his share. Applications for orders to sell were made by guardians and obtained. Public sales were held at which H became the purchaser and the guardians reported as required by statute. In an action by A for the price of the two-sevenths, *Held*—It is not contrary to public policy or fraudulent, for a guardian, before applying for a license to sell real estate belonging to his ward, to procure the obligation of an intending purchaser to bid an adequate price at the sale, or after the confirmation to advance and

account for the amount of the bid, at the instance and on behalf of the purchaser. *Hyatt* v. *Anderson* (1903),—Neb. — 96 N. W. Rep. 620.

The above situation is easily distinguishable from an agreement with a guardian to give effect to a private agreement to sell to the purchaser when he obtained the order of the court, which is void as opposed to public policy. See *Mack* v. *Brammer*, 28 Ohio St. 508; *Downey* v. *Peabody*, 56 Ga. 40; *Rome Land Co.* v. *Eastman*, 80 Ga. 683. In the present case nothing irregular has been done. The guardian simply obtained the obligation of H to bid at a regular sale. He being the highest bidder it was properly sold to him under order of the court. *Stuart* v. *Allen*, 16 Cal. 474, 76 Am. Dec. 551,

HUSBAND AND WIFE—DISTRIBUTION AND DESCENT—STATUTORY CONSTRUCTION.—A husband and his wife settled upon lands in Kansas. Two years later a disagreement arose and the wife returned to her former home in the east. Husband continued to live upon the homestead for some years with the children of a former marriage. He then sold the lands, the purchaser supposing him to be a single man. The husband dying intestate, the wife brings action of ejectment to recover undivided half interest in the land under section 2510 Gen. St. 1901 which provides "that the wife shall not be entitled to any interest under the provisions of this section in any land to which the husband has made a conveyance, when the wife at the time of the conveyance *is not or never has been* a resident of the state." *Held*, that the word "or" should read "and," thus holding that the wife who was at one time a resident of the state is entitled to the benefits of the act. *Kennedy* v. *Haskell, et al.* (1903)—Kan.—73 Pac. 913.

The reasons assigned by the four justices who sustain the majority opinion is that where the sense demands it or the intention is evident the words "or" and "and" may be used interchangeably. *Starr* v. *Flynn*, 62 Kan. 845, *Metropolitan Board of Works* v. *Stead*, L. R. 8 Q. B. Div. 447, *State* v. *Myers* 10 Ia. 448, *Rigoney* v. *Neiman*, 73 Pa. St. 330, *Blemer* v. *People*, 76 Ill. 265. Also that all the words of the statute should be given some meaning; that the intention of the legislature is shown not to limit the operation of the law to her present residence by the use of the words "never has been;" that the use of "and" includes those who ever have been residents of the state and gives some meaning to all the statute. *Small* v. *Small*, 56 Kan. 1, 42 Pac. Rep. 323, 30 L. R. A. 243, 54 Am. St. Rep. 581. The three justices who dissent urge with force that the use of "and" would render "is not" superfluous thereby violating the very rule the majority were anxious to avoid. SUTHERLAND ON STATUTORY CONSTRUCTION, Art. 239, p. 317, and Art. 252, p. 330. They claim that this construction will open the door for fraud allowing those who were never citizens of Kansas, except by design, to have preference over continuous residents; and that the legislature thought it better to exclude the non-resident wife than to defeat the innocent resident of his title honestly acquired. The element of uncertainty is also introduced as the wife might have obtained a divorce in another state, leaving the status of the parties in doubt and making the transfer of land more difficult. *Buffington* v. *Grosvenor*, 46 Kan. 730, 27 Pac. Rep. 137, 13 L. R. A. 282.

INJUNCTION—STRIKES—PICKETING.—The striking employes of the W. & A. Fletcher Co. allege that through their association they have employed certain persons to maintain a system of quiet picketing in the street near the works of the defendants; that the defendants by intimidations, threats, violence, arrests, etc. were interfering with the pickets of the complainants. This is a bill for an injunction to restrain such interference. *Held*, that the